

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOSEPH A. IOPPOLO, ET AL.,

Plaintiffs,

vs.

PORT OF SEATTLE, a municipal corporation;
PUGET SOUND ENERGY, INC., a
Washington for profit corporation,
KING COUNTY, a political subdivision of the
State of Washington;
CENTRAL PUGET SOUND REGIONAL
TRANSIT AUTHORITY, a municipal
corporation and
CASCADE WATER ALLIANCE, a municipal
corporation,

Defendants.

NO. 2:15-CV-00358-JCC

**PLAINTIFFS' RESPONSE TO
MOTION TO DISMISS AND
MOTION FOR 60-DAY STAY**

Note on Calendar: May 1, 2015

Plaintiffs filed their Complaint against King County, the Port of Seattle, Puget Sound Energy, Sound Transit and Cascade Water on March 10, 2015 (D.E. 1). The Complaint alleges causes of action for conspiracy, trespass, and slander of title against King County, the Port and Sound Transit, and also a claim for unjust enrichment against the Port. Defendants King County, the Port and Sound Transit filed a joint motion for dismissal of tort claims on April 7, 2015 (D.E.

23).¹ The Defendants' motion to dismiss is based on the provisions of RCW 4.96.020, which bars claims against a municipal entity until a claimant presents a claim to a local government entity prior to filing suit.

The Defendants are correct that Plaintiffs did not file formal claims with any of the municipal entities prior to filing this lawsuit.² It is Plaintiffs' position that dismissing the case against three of the Defendants pursuant to RCW 4.96.020 will not serve any legitimate purpose, particularly when the sixty-day waiting period as set forth in RCW 4.96.020 is and will be nothing more than a minor administrative impediment and the case would continue against the other Defendants who do not fall under the purview of RCW 4.96.020. Instead, Plaintiffs request that this Court simply stay this action for the sixty-day waiting period as prescribed in RCW 4.96.020 and Plaintiffs will immediately file claims with the municipalities entities as required by the statute.

Respectfully submitted,

Date: April 23, 2015.

STEWART, WALD & McCULLEY, L.L.C.

By /s/ Thomas S. Stewart

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AND

¹ Defendant Puget Sound Energy filed a separate motion to dismiss on other grounds on April 8, 2015 (D.E. 29).

² Defendant Puget Sound Energy is not a municipal entity as defined in RCW 4.96.020 and Plaintiffs will respond separately to their motion to dismiss.

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CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of April 2015, the foregoing was filed electronically with the Clerk of the Court to be served by the operation of the Court's electronic filing system upon all parties of record.

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